GNLU CENTRE FOR LAW & ECONOMICS
Policy Recommendations

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Comments to the Securities and Exchange Board of India on consultation paper titled "Separate Carve Out for Voluntary Delisting of Public Sector Undertakings"

Comments on behalf of the Policy Inputs Research Group on SEBI, GNLU Centre for Law & Economics

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I. INTRODUCTION: -

On 6th May 2025, the Securities Exchange Board of India ("**SEBI**") released a Consultation Paper suggesting an independent carve-out mechanism for the voluntary delisting of listed Public Sector Undertakings ("**PSUs**"). The suggested mechanism attempts to solve the specific difficulties that PSUs encounter in the existing Reverse Book Building ("**RBB**") process.

In keeping with the Centre's goal of integrating legal and economic thinking for strong policymaking, a special research group examined the consultation paper and submitted the following observations with a view towards having an effective, transparent, and equitable process of delisting PSUs.

II. GENERAL COMMENTS: -

This section would provide an overview of the comments of the Centre as stated below.

The Centre welcomes SEBI's appreciation of the structural and market distinctions between PSUs and private sector firms. The proposal correctly identifies the inefficiencies of using a one-size-fits-all solution through RBB for PSUs, especially those with high government concentration. Any alternative mechanism, however, needs to balance regulatory flexibility with protection of minority shareholders, provide valuation transparency, and minimize principal-agent and information asymmetry concerns.

A proposal-wise summary of recommendations is provided below -

- **Proposal 1 (Eligibility Criteria):** Introduce a compulsory squeeze-out mechanism for residual shareholders in which government and PSU stakes are more than 90%, backed by SEBI-paneled independent valuations. Make it transparent by providing public disclosures of reports and instituting time-bound appraisal rights.

- **Proposal 2 (MPS Compliance):** Retain the proposed exemption from minimum public shareholding norms, as they are not required in instances where promoters already own more than 90%.

- **Proposal 3 (Fixed Price Delisting):** Maintain the fixed price regime while ensuring a minimum of a 15% premium on the floor price for the sake of fairness and certainty. This ensures goodwill and safeguards investors in illiquid markets.

- **Proposal 4 (Public Shareholder Approval):** Favor the elimination of the two-thirds public shareholder approval requirement for PSUs where there is 90% government ownership, subject to higher disclosure standards for the purpose of avoiding information asymmetry and safeguarding minority interests.

- **Proposal 5 (Determination of Exit Price):** Implement a phased hybrid valuation methodology using expert and mechanical approaches, in addition to regulatory protections such as valuer rotation and audit requirements to facilitate equitable price discovery.

- **Proposal 6 (Unutilized Proceeds):** Favor centralized disbursal of unclaimed money through the stock exchange, but make the system more robust by linking it to PAN, a computerized portal for claims, reminders from time to time, curtailing claim period (3–5 years), and investment of idle funds in low-value instruments.

III. SPECIFIC COMMENTS: -

SL. NO.	ISSUE	SUMMARY OF PROPOSAL	COMMENTS/SUGGESTIONS	RATIONALE
1.	**Proposal No. 1**: **Eligibility criteria for the separate carve-out procedure being that only PSUs where the government (promoter group) and other PSUs together hold 90% or more shares can use this special delisting route**	Under SEBI (Delisting of Equity Shares) Regulations, 2021, delisting of a company is considered successful if the post offer shareholding of the promoter/promoter group, along with the shares that were bought/offered back from the public reaches the threshold of 90%[1]. Therefore, deriving from this aforementioned minimum criterion is one of the mooted	• Adoption of the separate carve-out procedure instead of the RBB process only for the PSUs which achieve the ≥90% threshold. • Mandatory squeeze out for minority shareholders in PSUs where the ≥ 90% threshold is met based on consultation and valuation	The comments/policy recommendations are based on two-fold rationale - both economic and legal **1. Legally it relies on four pillars:** a. Precedents in SEBI Rules with Regulation 5(4) and 19A(v) of SEBI (Delisting of Equity Shares) Regulations, 2021 which show that infrequently traded shares need not delist only through RBB. b. SEBI's principle of "proportionate regulation" - stricter rules for widely held

[1] Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021, SEBI/LAD-NRO/GN/2021/22 (India).

		proposals regarding the separate carve-out process for the voluntary delisting of PSUs, where the shareholding of the promoter group (the Government) equals or exceeds 90% of total issued share capital.	offered by an independentlyy appointed and SEBI empaneled valuer and valuation. • Ensure transparency by providing dossiers, valuation reports and even approval certificates issued by SEBI so as to build market trust. • Ensure that the whole process does not exceed 20 `days as only then can significant time bound	companies and relaxed approach to those with consolidated holdings supported by existing examples. c. The Department of Investment and Public Asset Management ("**DIPAM**") has historically struggled with strategic sales of PSUs due to low market interest (due to their inefficient and loss-making nature)[2] and valuation mismatches (no price discovery). A 90% threshold ensures that only consolidated government-dominated PSUs (where public stake is negligible) qualify, reducing regulatory friction. d. The proposal also seeks to align India with the best global practices as to efficient and

[2] Department of Investment and Public Asset Management (DIPAM), Ministry of Finance, Government of India, Annual Report 2022-23 (2023), https://dipam.gov.in/publications/annual-reports.

			opportunity cost savings be made. • Provide explicit appraisal rights to the minority shareholders so that they can challenge any distorted valuations in an independent adjudicating authority (e.g. Securities Appellate Tribunal, National Company Law Tribunal, etc.) with the provision being time bound (resolution	successful delisting processes. Cases in point being UK's Companies Act 2006 (Section 979), Section 215 of Singapore's Securities and Futures Act and European Union's Takeover directive. **<u>2. Its economic appraisal relies on the following principles-</u>** a. Behavioural economics on the basis of the anchoring and loss aversion biases: Lose aversion can make investors fearful of selling at a relatively "low price" leading to prolonged holdouts. That is why independent valuer-determined price becomes so important as it removes these emotional biases. The implication of the Anchoring effect is that

			within 90 days or less) so as to ensure speedy resolution. • Align the entire process with global best practices as illustrated in the comments and rationale.	it that market participants with this bias tend to hold securities even after they have lost value because they have anchored their fair value estimate to the original or the highest price rather than to fundamentals or intrinsic value leading to greater risk for the shareholders and in terms of delisting, delays and costs due to holdout for the promoter group. b. Cost-Benefit analysis to understand the pros and cons of the implementation of such proposal and how overall it would lead to reduction in time, transaction costs and lead to successful delisting. c. Game Theory analysis using Nash

				equilibrium and Bayesian game to understand how the proposals need to be rooted in bilateral understanding and the necessity of informational symmetry. d. Efficient Market Hypothesis to understand why the current mode of delisting is inefficient because of variety of factors such as price distortion and illiquidity.
2.	**<u>Proposal No. 2:</u> Dispensing with the requirement of complying with MPS norms**	Eligible PSUs can delist even if they do not meet the minimum public shareholding requirement of 25%.	No changes are required. Since PSUs that are delisting are already on their way to exiting the stock exchange, imposing a minimum MPS requirement is pointless and burdensome.	Because companies that are delisting have to ensure >90% promoter share post delisting, the MPS requirement only acts as a regulatory hurdle in this process. Furthermore, exempting MPS norms for PSUs allows the government

				to swiftly delist and privatise non-strategic PSUs, unlocking capital for reinvestment in priority sectors.
3.	**<u>Proposal No. 3:</u>** **Fixed Price delisting regardless of Trading Volume**	An eligible PSU may be delisted through a fixed price delisting process, irrespective whether the shares are frequently traded or infrequently traded. However, as currently prescribed, the fixed delisting price shall need to be at least 15% premium over the floor price.	No changes are required. The proposal is economically sound. The investors of the infrequently traded shares on getting a higher amount will be impressed and will be prompt on buying the shares on them being listed in the market again. The investors of the frequently traded shares will also invest as they sufficiently benefitted from the fixed price.	In the PSUs, as the government holds the shares, the market volatility reduces by a significant amount, resulting in lower risk. This security received by the investors increases their stock value. The shares are frequently traded as a result. This increases the goodwill and the reputation of the PSUs. When the PSUs delist due to any reason (one of which could be due to impending market crash), they consider the possibility of listing their companies again after the market recovers. This leads to imperfect market as the

				shares are prevented from being traded in the open market. And to ensure that the public buys and trades the newly listed shares, they need to satisfy the public. The cost incurred by the PSUs is the higher fixed price which they have to pay which should be at least 15% over the floor price which is high from the beginning, irrespective of the shares being frequently or infrequently traded. The benefit received by them is the public trust and goodwill. This helps them in improving their business transactions and ensuring the trading of their shares when they relist their shares in the market. The investors pay the cost of being unable to

				trade those shares and selling them to get the benefit of the amount paid to buy those shares. Taking the long run scenario into consideration, it is necessary to incur the cost to get the benefit. The benefit outweighs the cost incurred making the proposal sound and economical. Applying the consumer demand theory, 1. <u>Investors as consumers:</u> The investors getting the fixed price as a premium of minimum 15% over the floor price, in return for selling off their shares maximises their utility as in a market which is heading towards a crash or any other situation, they would not be able to sell their shares for the

				amount which they will receive by selling the shares to the shareholders of the company. The same act of selling gives them more utility in one situation. <u>2. The PSUs as consumers:</u> If the PSUs would have bought the shares at the market rate, the price would have been much lesser than the fixed rate. They would not have been able to meet the public expectation which would have resulted in a dip in their sale and business and not a prompt response on the relisting of their shares. Buying the shares at a higher price i.e. at a minimum premium of 15% on the floor price, helps the company

				secure the goodwill of the people. This results in positive response of the public during business and the relisting of the shares. This results in more utility for the PSUs than the previous situation. Both the parties are able to utilise their situations to maximum amount, making the proposal economically sound.
4.	**<u>Proposal No. 4:</u>** **Relaxing the requirement of seeking two-third approval from public shareholders to the proposal of delisting**	In cases where the aggregate shareholding of promoter/ promoter group along with the other PSUs equals or exceeds 90% of the total issued shares of that company, the requirement of seeking two-third	Address information asymmetry gap by making the pricing process transparent and providing more publicly available information on pricing methods. This can be done by: 1. <u>Expert/Independent valuation:</u>	Usually, a minimum of 25% of public shareholding is to be achieved in a PSU. [3] Further, it is also mandated that there should be approval from 2/3rd of the public shareholders in order to proceed with delisting.[4]

[3] Securities Contracts (Regulation) Rules, 1957, Rule 19A prescribes a minimum shareholding of 25% to be a continuous listing requirement.
[4] SEBI (Delisting of Equity Shares) Regulations, 2021, Regulation 11; Securities Contract (Regulation) Rules, 1957.

		approval from the public shareholders may be dispensed with. Further, since the requirement stems from Securities Contract (Regulation) Rules, 1957 amendment may also be required to be made in the Securities Contract (Regulation) Rules.	Mandating that the primary methods of price evaluation and decision making should be from an expert or independent third party ensures that there is no information gap between the public shareholders and the government, and this would provide us with a more efficient price. 2. <u>Mandatory disclosure requirements:</u>	However, by doing away with these requirements, it reduces the time and costs of doing so. According to Coase theorem, these transaction costs of the delisting process reduce, as such approval from the public shareholders is not required, thereby making the transaction more efficient. When there is a requirement of approval from 2/3rd of the public shareholders, then the coordination, time, information costs are high, with there being more legal requirements. Without this approval requirement, costs would reduce and there would be time efficiency. If the requirement for 2/3rd approval by public shareholders is

				Mandatory disclosures about how the delisting price is arrived at could help address the potential lack of information at the hands of public shareholders. This could also provide for public review of the pricing to ensure that it is not unfair to the minority shareholders.	removed, the imbalance in bargaining power between the government and public investors becomes even more pronounced. In a PSU where the government holds a 90% stake, its influence over the delisting process is already dominant. Eliminating this approval threshold further weakens the position of minority shareholders, limiting their ability to negotiate a fair exit price. Information asymmetry plays a crucial role here—where different parties have unequal access to critical details. The government, with its insider knowledge, policy leverage, and financial strength, holds a clear advantage, while public shareholders, even collectively,

				remain at a significant disadvantage. This disparity allows the government to dictate the delisting price to a greater extent, potentially undervaluing the stakes held by minority investors. Ultimately, removing the approval requirement shifts control further towards the majority stakeholder's preferences, raising concerns about fairness, transparency, and the protection of public shareholder interests.
5.	**<u>Proposal No. 5:</u>** **Exit Price to the Public Shareholders:**	SEBI proposes to revise the floor price calculation methodology with three options: <u>Option A (Current):</u> "Highest of five methods" approach	A modified hybrid approach (**Enhanced Option C**) is recommended - <u>1. Expert valuation as primary method with mandatory disclosure comparing it to</u>	<u>Pareto and Kaldor-Hicks Efficiency Analysis:</u> - Option A creates deadweight loss when beneficial transactions are abandoned due to

		incorporating book value, comparable trading multiples, DCF analysis, return on net worth, and net asset value calculations <u>Option B (Proposed):</u> Single expert valuation method where independent valuers determine fair value based on comprehensive analysis <u>Option C:</u> Any other parameter.	<u>mechanical calculations:</u> The expert valuation with mandatory disclosure framework creates a hybrid system where expert judgment is primary giving valuers' flexibility to use sophisticated methodologies and consider company-specific factors that mechanical rules might miss. But transparency is enforced by requiring disclosure of what the mechanical calculations would have yielded, so stakeholders can see if the expert price is reasonable or potentially biased. When expert valuations differ significantly from	artificially inflated prices - Option B improves allocative efficiency because it allows more economically beneficial transactions to occur by setting prices closer to true economic value rather than mechanically maximized floors, enabling better resource allocation to highest-value uses. However, it may not be Pareto superior because minority shareholders definitively receive lower prices than under Option A, making them worse off even when the overall economic gains are positive - and there's no mechanism to compensate them from those gains. - Hybrid approach achieves Kaldor-Hicks efficiency by enabling

			mechanical benchmarks, detailed justification is required, creating accountability without rigid constraints. Public oversight is enabled by making comparative data available, which allows market participants, courts, and regulators to evaluate whether expert determinations are genuinely reflecting economic value or potentially favouring certain parties. This addresses the principal-agent problem in pure expert valuation (**Option B**) while avoiding the rigidity and potential inefficiency of pure	value-creating transactions while maintaining compensation mechanisms. <u>Principal-Agent Theory:</u> - Option B creates classic principal-agent problems where valuers' incentives may not align with regulatory objectives. - Risk of regulatory capture through repeat client relationships. - Mandatory rotation and audit mechanisms address agency costs through monitoring and bonding. - Standardized methodologies reduce agent discretion and moral hazard.

			mechanical rules (**Option A**). <u>2. Enhanced oversight framework including:</u> - Qualifying criteria for valuers. - Mandatory rotation (maximum 3-year engagement). - Randomized audit program (15-20% of valuations). -Standardized methodologies by sector. <u>3. Phased implementation over 3 years:</u> - Year 1: Expert valuation with 90% floor of Option A. - Year 2: Expert valuation with 80% floor of Option A.	<u>Game Theory and Strategic Behaviour:</u> - Option A creates perverse incentives for acquirers to manipulate market transactions during look-back periods. - Option B may lead to "valuer shopping" and race-to-the-bottom dynamics. - Repeated game considerations: reputation effects partially constrain valuer behaviour. - Regulatory oversight creates credible threat mechanism to deter strategic manipulation. <u>Information Economics:</u> - Current system addresses adverse selection through multiple valuation benchmarks.

			- Year 3: Pure expert valuation with enhanced oversight.	- Expert valuation may improve price discovery through professional analysis. - Moral hazard risks arise from reduced mechanical constraints on pricing. - Signaling effects: mandatory disclosure requirements convey information about valuation quality
	<u>**Proposal No. 6:**</u> **Transferring the unutilized amount to the designated stock exchange**	SEBI has proposed a change in the handling of unutilised delisting proceeds. Currently, such proceeds, meant as consideration to public shareholders for tendered shares, are kept in an escrow account for one year or until all shareholders have claimed their dues, whichever is	The centralized system improves efficiency, reduces investor burden, and addresses behavioural and principal-agent issues, but it risks value erosion due to idle funds and lacks procedural clarity. SEBI could strengthen the system by linking PAN data, creating a digital claims portal,	The justification for the proposed enhancements comes from the trade-offs identified in the cost-benefit assessment of the proposed centralized system. While the system provides advantages of administrative efficiency, lower transaction costs, correction of behaviour, and avoidance of principal-agent issues, leading to increased

		earlier, before being released to the acquirer. Under the new proposal, the unclaimed amount will instead be transferred to the designated stock exchange, where investors can claim it for a minimum of seven years. After this period, any remaining amount will be transferred to the Investor Education and Protection Fund (“**IEPF**”) under the Companies Act, or to SEBI’s Investor Protection and Education Fund (“**IPEF**”), if IEPF is not applicable. Investors will retain the right to claim their amount from the respective fund	shortening the holding period to 3–5 years, sending annual reminders, allowing low-risk investment of idle funds, and issuing clear guidelines for IEPF/IPEF transfers.	fairness and easier investor claims, it also has some costs that need to be tackled for its complete effectiveness. PAN linkage is suggested in order to decrease transaction costs as well as information asymmetry further, strengthening administrative efficiency and reducing investor effort, thus aiding behavioural correction. Developing a digitised portal for claims is planned with the objective of overcoming psychological resistance such as inertia and status quo bias to enable faster and simpler access to unclaimed amounts. Cutting the seven-year holding period to 3–5 years is warranted by the deadweight loss and opportunity cost of

		even after this transfer.		having funds idle, for inflation would erode their value over time. To offset the economic idleness of these funds, the proposal proposes stock exchanges to invest them in low-risk instruments so as to maintain capital productivity without compromising investor safety. Periodic reminders by SMS/email once a year are suggested to push investors into action as part of behavioural correction efforts, supplemented by unmistakable guidelines regarding IEPF/IPEF eligibility, which eliminates procedural uncertainties that might undermine accessibility and lower confidence in the new system. Every suggested reform is therefore, intended to

				build on the current advantages and directly address the resultant costs and risks.